

Replies by J. Strom Thurmond, Governor of South
Carolina, To Questions Submitted By The United
Press Association, September 1, 1948.

1. Q. What is the basis of the rights and powers possessed by the States?
A. The rights and powers possessed by the States are inherent, in that they were possessed by the States when they won their freedom from rule by the King of England. Before the Constitutional Convention of 1787, all powers of government were vested in the separate States.
2. Q. How and by what authority are these rights and powers limited?
A. The rights and powers of the States are limited only insofar as the Constitution granted certain powers to the Congress, or limited or prohibited the exercise of certain powers by the States.
3. Q. How and by what authority are these rights and powers to be expanded or contracted?
A. The rights and powers of the States may be expanded or contracted by amendments of the United States Constitution in the manner provided in and by that document.
4. Q. Is the right of the federal government to regulate and legislate all affairs that can be construed as interstate taken as granted, and beyond controversy?
A. Commerce which is interstate, "among the several states" in the words of the Constitution may be regulated by Congress. Except as to interstate commerce, however, the power of Congress is not based upon the interstate character of the matter sought to be dealt with; a specific grant of power must be found for its action in the Constitution itself.

5. Q. What, specifically, are the rights and powers guaranteed to the States; that is, police power, taxing, etc.?

A. The 10th Amendment to the Constitution of the United States provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The States, therefore, have every governmental power except that granted exclusively to the Federal Government in the Constitution or prohibited to the States. Hence, the powers of the States include the police power, the regulation of suffrage and elections, and the control of domestic affairs in their borders.

6. Q. Does the "Lindbergh" kidnapping law apply to intra-state crime? If so, what is the basic difference between this act and the proposed bill to make intra-state lynching a federal offense?

A. The so-called "Lindbergh kidnapping law" in the United States Code does not apply to intra-state crime. Under this law, kidnapping becomes a federal offense only if the person kidnapped or the ransom money involved is carried across state lines. This act is an exercise of the granted power to regulate commerce "among the several states." The basic difference in the Federal kidnapping law and the proposed intra-state lynching law is that the latter would, for the first time and without Constitutional precedent, invade the exclusive right of the States to exercise their internal police power, and take that power by usurpation.

7. Q. Do you believe that states' rights belong to the states because they originally came into the union possessed of certain rights, surrendering only those necessary for control of interstate and foreign affairs; or is it your view that the rights of states were conferred in the constitution by the union, and subject to abridgement.? In other words, are states' rights inherent in the state, or are they granted to it by the government?

A. The rights of the States were not conferred by the Constitution.

On the contrary, the States granted certain rights to the Federal Government by adopting the Constitution. They agreed to certain limitations in that document on their own rights. The rights and powers remaining to them antedated the Constitution.

8. Q. Please add any significant points you care to.

A. The position of the States in 1787 has been accurately summarized by Frank J. Hogan in his presidential address to the American Bar Association: "When the Constitution was being considered it was manifest that the States were unwilling to surrender their sovereignty. They felt the need of a government stronger than the Confederation in certain fields of governmental action affecting the states generally, but they refused to delegate to a strong central government unrestrained control over their local affairs."

The powers of the States are of vast significance with respect to their non-federal functions. They have the power to establish organized governments for the State, counties, towns, villages, and cities, subject only to the limitation that a republican form of government must be maintained. They have the power to regulate suffrage, except that discrimination because of sex or color is forbidden. They may lay and collect taxes. They have the police power, under which they have sweeping powers as to keeping the peace, health, morals, and the common welfare,

subject, however, to the due process and equal protection clauses of the Fourteenth Amendment. They regulate the field of public school education. They regulate public utilities and create corporations. The field of private law, including family law and property law, is theirs to develop.

The existence of the States is essential to the American conception of representative self-government. Centralization of power in the Federal government serves to reduce and nullify the part played by the individual in his government. As Chief Justice Hughes said, it is well that "the individual may have as direct a part as possible in the government of his life, a part which shall not be rendered inconsequential by the centralization of power."

The proposed civil rights legislation upon the inherent sovereignty of states in their internal matters would result in a revolutionary change in our form of government. Control of elections, exercise of internal police power, and regulation of intrastate business, employment, and social affairs would virtually destroy local self-government and home rule in domestic affairs. Federal Judge John J. Parker said in a recent book: "It is easy to plan nation-wide reforms by national legislation; but experience has taught us the danger of exerting national power in local matters where local opinion does not support the exercise of such power."

Owen J. Roberts, retired Associate Justice of the Supreme Court of the United States, recently suggested a constitutional amendment to define the general welfare which Congress may promote by appropriation and to define what is a permissible

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federal regulation of interstate commerce. These seemed to him to be the "loopholes through which the federal invasion has poured into the domain of the States." He observed:

"We should at least discover whether there is a sentiment to preserve, protect, and foster State jurisdiction and State Power; or whether our people prefer something more nearly approaching alien systems, wherein the States are mere administrative districts of a central government."